

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Robert Robinson, #346441,)	
)	Civil Action No.: 5:17-cv-00500-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
)	
Claude Ellis, Benjamin Davis, individually)	
and in his official capacity, and Sergeant)	
Truesdale (D-1 Shift), individually and in)	
his official capacity,)	
)	
Defendants.)	
_____)	

This matter is before the court for review of Magistrate Judge Kaymani D. West’s (“Magistrate Judge”) Report and Recommendation (“Report”) filed on July 20, 2018 (ECF No. 128). The Report recommends granting Defendants Claude Ellis, Benjamin Davis, and Sergeant Truesdale’s (collectively “Defendants”) Motion for Summary Judgment (ECF No. 93). For the reasons stated herein, the court **ACCEPTS** the Report and **GRANTS** Respondent’s Motion for Summary Judgment.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Report sets forth the relevant facts and legal standards which this court incorporates herein without a full recitation. (*Id.* at 1-5.) As brief background, Plaintiff Robert Robinson (“Plaintiff”), proceeding pro se and in forma pauperis, initiated the instant § 1983 action on February 21, 2017. (ECF No. 1.) Plaintiff alleged numerous violations of the United States Constitution and South Carolina state law. (ECF Nos. 1, 47). On January 30, 2018, Defendants moved for summary judgment. (ECF No. 93.) The Magistrate Judge issued a *Roseboro* Order on January 31, 2018. (ECF No. 95.) After multiple extensions (ECF Nos. 102, 117, 121), the

Magistrate Judge ordered Plaintiff to respond to Defendants' Motion by June 18, 2018, and advised Plaintiff that failure to respond by this date would result in dismissal of the action with prejudice for failure to prosecute. (ECF No. 124.) Plaintiff filed his Response to Defendants' Motion on June 19, 2018.¹ (ECF No. 126.) Defendants' replied on July 2, 2018. (ECF No. 127.)

The Magistrate Judge filed the Report on July 20, 2018. (ECF No. 128.) The Report recommended granting summary judgment on all of Plaintiff's claims or, in the alternative, granting Defendants qualified immunity. (*Id.* at 8-25.) The parties were apprised of their right to file specific, written objections to the Report within fourteen days of the date of service of the Report. (*Id.* at 26; ECF No. 128-1 at 1.) Neither party objected to the Report.

II. STANDARD OF REVIEW

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making de novo determinations of those portions of the Report and Recommendation to which specific objections are made. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Thus, the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

¹ Plaintiff's Response was received by the Clerk of Court for the United States District Court of South Carolina on June 25, 2018. (ECF No. 126.) However, pursuant to the "prison mailbox rule" under *Houston v. Lack*, a document is filed by an inmate on the date it is delivered to the prison authorities for forwarding to the clerk of court. 487 U.S. 266, 276 (1988). Therefore, Plaintiff's response was filed on June 19, 2018, the day it was received by the Broad River Correctional Institute's Mailroom. (ECF No. 126-2 at 1.)

III. DISCUSSION

In the absence of specific objections to the Magistrate Judge's Report, the court is not required to give any explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Furthermore, a failure to file specific, written objections to the Report results in a party's waiver of the right to appeal from the judgment of the court based upon such recommendation. 28 U.S.C. § 636(b)(1). Accordingly, since no specific objections were filed by either party, the court adopts the Report herein. *Camby*, 718 F.2d at 199.

IV. CONCLUSION

After a thorough review of the Report and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 128) and **GRANTS** Respondent's Motion for Summary Judgment (ECF No. 93).

IT IS SO ORDERED.



United States District Judge

September 28, 2018
Columbia, South Carolina